

CHAPTER 4 GENERAL REVENUE BOND PROCEDURES

265—4.1(16) Revenue bonds authorized. The authority may issue revenue bonds for any of the purposes for which financing is authorized under Iowa Code chapter 16. Revenue bonds are limited obligations of the authority, and principal and interest thereon shall be payable solely out of the revenues derived from the loan to the borrower financed by the bond and the underlying collateral or other security furnished by or on behalf of the borrower. The principal and interest on the bond does not constitute an indebtedness of the authority nor a charge against its general credit or general fund. The lender acquiring the bond shall have no other recourse against the authority.

265—4.2(16) Participating lenders. The authority will disseminate a summary of the programs for which revenue bond financing is authorized to mortgage lenders located within Iowa. Any mortgage lender as defined in Iowa Code section 16.1 may apply to become a participating lender in an authority program providing financing through revenue bonds by submitting a signed letter of interest in a form prescribed by the authority to the authority. A letter of interest may be submitted at any time and upon approval by the authority the participating lender shall be obligated to abide by applicable program guidelines. At its regular monthly meetings, the authority will review letters of interest received since the last board meeting and approve letters of interest from qualified mortgage lenders. After approval, the lenders shall be considered IFA revenue bond participating lenders.

265—4.3(16) Procedures for project sponsors. Applications for revenue bond financing may be made with any IFA revenue bond participating lender in the same lending area as the project to be financed. The project sponsor shall provide the lender with information books, records, etc., as the lender may consider to be reasonably necessary to evaluate or underwrite the risk.

A project sponsor must meet the eligibility requirements established for a particular type of revenue bond financing, by applicable state law and the rules of the authority. If the eligibility requirements are met, the participating lender may nonetheless deny a loan, subject to all reporting and disclosure requirements of applicable state and federal law, for any reason premised on sound lending practice, including underwriting or risk evaluation, portfolio diversification, limitations or restrictions on investments or available funds, and the lender's degree of need for tax-exempt earnings. Any loan that is approved will be assigned to the participating lender.

If the loan is approved, the terms of the loan, including interest rate, length of loan, down payment, fees, origination charge and repayment schedule, shall not be any greater than those available to similar customers after taking into account the tax-exempt nature of interest on the bonds.

265—4.4(16) Authority review. The completed and approved loan application shall be submitted to the authority for its review and approval. The authority's review will include, though not be limited to, consideration of whether (1) the project sponsor is qualified for the type of loan it is seeking; (2) the loan proceeds will be used for a qualified purpose under the Iowa Code and the rules of the authority, and under the U.S. Internal Revenue Code and IRS regulations relating to industrial development bonds; and (3) the terms of the loan comply with these rules.

The authority may charge reasonable and necessary fees as needed to defray its costs for processing the loan and bond.

Following such review, the authority shall either approve or deny each specific revenue bond proposal. If the proposal is approved, the authority shall issue a bond for that proposal, and shall enter into a loan agreement with the project sponsor. The authority shall then assign the loan without recourse to the participating lender.

265—4.5(16) Public hearing and approval. In all cases where a public hearing, and the approval of an elected state official is required under the United States Internal Revenue Code and the regulations promulgated pursuant thereto, before the issuance of a tax-exempt bond by the authority, the following procedures apply.

4.5(1) *Public hearing.* After January 1, 1983, the authority will not issue a bond for a specific project unless, prior to issuance, the authority has conducted a public hearing conforming to the applicable requirements of the United States Internal Revenue Code and the regulations promulgated thereunder. The hearing shall be preceded by a notice thereof published at least 14 days prior to the date of the hearing in a newspaper of general circulation in the county where the project is located. The notice shall include but not be limited to the date, time and place of the hearing, the name of the project sponsor, and a general description of the project.

The hearing shall be held at the authority's office in Des Moines, or other location stated in the notice, unless at or prior to the time scheduled for the hearing, the authority receives a written request that a local hearing be held. In the event a local hearing is requested, the previously scheduled hearing shall be canceled, and notice of a hearing in the local area shall be published in the time and manner stated above. The local hearing shall be held at the date, time and place specified in the new notice, which time and place shall be reasonably convenient to persons affected by the project.

The public hearing may be held by a staff member or board member of the authority or a hearing officer of another state agency working under an agreement with the authority.

4.5(2) *Approval of elected official.* After January 1, 1983, the authority will not issue a bond for a specific project unless, prior to issuance, the governor or another elected official of the state designated by the governor, shall approve the issuance of a bond. Following the public hearing opportunity referred to in subrule 4.5(1), the authority shall prepare and send to the governor's office, or the office of an elected official of the state designated by the governor, a statement describing each bond or series of bonds which it proposes to issue, along with a summary of the public comments received with respect thereto, if any.

This rule is intended to implement Iowa Code chapter 16 and Section 103(k), United States Internal Revenue Code and regulations promulgated thereunder.

265—4.6(16) Procedures following bond issuance. No bond proceeds may be used by a nonqualified user nor for a nonqualified purpose. Following disbursement of the bond proceeds, the participating lender and project sponsor shall certify to the authority that the proceeds were used by a qualified project sponsor for a qualified purpose.

4.6(1) *Assumption of loans, substitution of collateral and transfer of property.* Loans may not be assumed without the prior approval of the authority and then only if the purchaser of the property is an eligible project sponsor for IFA revenue bond financing. In any situation where collateral is substituted, or property transferred other than a sale of the entire operation financed by IFA revenue bonds, the benefits of the loan deriving from the tax-exempt rate of interest on the bonds must remain with the operation financed by the revenue bonds, and no transferee may thereby obtain the benefits of the IFA loan.

4.6(2) Reserved.

265—4.7(16) Right to audit. The authority shall have at all times the right to audit the records of the participating lender and the operation financed by IFA revenue bonds relating to the loan and bond to ensure that bond proceeds were used by a qualified user and for a qualified purpose. The authority or a designee acting under instructions of the authority may exercise this right.

These rules are intended to implement Iowa Code chapter 16.

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